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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,644	05/02/2001	Jared Polis Schutz	Proflowers-P2-01	1018
28710	7590	03/08/2006	EXAMINER	
PETER K. TRZYNA, ESQ. P O BOX 7131 CHICAGO, IL 60680			LAMB, TWYLER MARIE	
			ART UNIT	PAPER NUMBER
			2622	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/847,644

Applicant(s)

POLIS SCHUTZ ET AL.

Examiner

Twyler M. Lamb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Mellgren, III et al. (US 6,085,126).

With regard to claims 1, 11 and 21, Mellgren discloses a method for generating an ornamental design the method including the steps of: assigning shipping information signals corresponding to a waybill for a particular shipment with a courier computer shipping apparatus (central computer system 106) (col 3, lines 58-62); transmitting the shipping information signals corresponding to a non-courier printer device (which reads on submitting the information to the manufacturing operation) (col 5, lines 56-61); combining the shipping information signals with signals corresponding to an ornamental

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design (col 5, line 50 – col 6, line 2); and printing the waybill including the ornamental design, for the particular shipment at the non-courier printer device including an ornamental design (which reads on submitting the information to the manufacturing operation) (col 5, lines 56-61).

***(Note: According to Webster's Dictionary, 1984, a waybill is defined as "a document containing a list of goods and shipping instructions relative to a shipment". Per this definition, Mellgren reads on the waybill.)***

With regard to claims 2 and 12, Mellgren also discloses wherein the ornamental design includes a heart (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46).

With regard to claims 3 and 13, Mellgren also discloses wherein the ornamental design includes a wreath (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46).

With regard to claims 4 and 14, Mellgren also discloses wherein the ornamental design is printed in color (col 5, lines 38-42).

With regard to claims 5 and 15, Mellgren also discloses wherein the ornamental design is a printing of bit map, said bit map not including a logo, shipment, or courier information (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46).

With regard to claims 6 and 16, Mellgren also discloses wherein the ornamental design is a first design and said first design includes a second design . (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46)

With regard to claims 7 and 17, Mellgren also discloses further including the step of controlling addition of the design to the shipping label at an ordering system computer (which reads on a kiosk coupled to a central computer system via a network) (kiosk 102, col 3, lines 55-62).

With regard to claims 8 and 18, Mellgren also discloses further including the step of controlling addition of the design to the shipping label at an ordering center system computer (which reads on a kiosk coupled to a central computer system via a network) (kiosk 102, col 3, lines 55-62).

With regard to claims 9 and 19, Mellgren also discloses further including the step of controlling addition of the design to the shipping label at a financial institution system computer (which reads on a kiosk coupled to a central computer system via a network) (kiosk 102, col 3, lines 55-62).

With regard to claims 10 and 20, Mellgren also discloses further including the step of controlling addition of the design to the shipping label at a distribution center system (which reads on a kiosk coupled to a central computer system via a network) (kiosk 102, col 3, lines 55-62).

With regard to claim 22, Mellgren also discloses wherein said at least two members are printed on the same sheet (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46).

With regard to claim 23, Mellgren also discloses wherein all said members are printed on the same sheet (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46).

With regard to claim 24, Mellgren also discloses further including the steps of: combining ornamental design signals with signals for printing another member of the group (which reads on creating a custom design, the design could be anything) (col 3, lines 43-46); and printing the member of the group, including the ornamental design, for the particular shipment at the shipper printer device (which reads on submitting the information to the manufacturing operation) (col 5, lines 56-61).

The limitations of claims 25-52 are addressed in the rejections above.

### ***Response to Arguments***

3. Applicant's arguments filed 12/5/05 have been fully considered but they are not persuasive.

Applicant argues that Mellgreen does not disclose a courier computer and still argues the difference in the definition of waybill. The term is clearly defined and the rejections meet all the limitations of the claims.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Twyler M. Lamb whose telephone number is 571-272-7406. The examiner can normally be reached on Mon, Tues and Thurs 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on 571-272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Twyler M. Lamb  
Primary Examiner  
Art Unit 2622